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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,982	12/03/2001	Marshall R. Millikan	10051	9219

26884 7590 04/22/2005

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EXAMINER

LANEAU, RONALD

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/004,982	MILLIKAN, MARSHALL R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ronald Laneau	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*[Handwritten mark]*

***Response to Appeal Brief***

1. In view of Applicant's arguments in the Appeal Brief, the finality of the rejection of the last Office action mailed on 10/19/04 is withdrawn. Claims 1-22 remain pending and a new rejection follows.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crabtree et al. (6,295,367 B1) in view of Patterson et al. (US 6,523,743 B1).

Crabtree discloses a method and system of operating a service device such as a banking machine or self-service check out (cols. 1-2 and 37-38) comprising: Beginning a transaction on the automated service device in connection with a current user (cols. 37-38 - the tracing information is useful in determining the interaction of a person with a banking machine, a help desk, particular merchant display, etc. - detecting an occurrence or non-occurrence of a transaction between an object in the scene;

Determining whether to provide an optional communication to the current user of the automated service device based on the obtained queue data (col. 2, cols. 37-38, and col. 39 - desirable to monitor behavior of consumers in various locations of a retail establishment in order to provide information concerning the sequence of events and decisions that a consumer makes

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because it is useful in determining adjusting location and features of services provided in a bank, changing merchandising strategies and display arrangements, etc., tracking information is useful in determining when a queue (line) of objects is formed in the scene, i.e. a line of customers in a retail establishment; may also be used to measure the amount of time individuals spend in observation of an area of interest, such as a promotional display, an information kiosk, ATM machine, etc. - total time that a track of an object spend in that particular area of interest of the scene is accumulated to determine dwell time).

Crabtree does not specifically disclose Obtaining data regarding a queue of potential users of the automated service device and optional communications are provided based upon the queue data but Patterson discloses a self-service system that is an automated teller machine (ATM) 10 that obtains data regarding a queue of potential user of the automated service device (see fig. 2). Neither Crabtree nor Patterson explicitly discloses an optional communication to the current user but it is old and well known in the art for an ATM machine to allow a user to further services such as paying bills, checking balance, etc.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included obtaining a queue data of potential users as taught by Patterson into the system of Crabtree because it would greatly decrease the waiting time for customers wanted to utilize the ATM machine.

As per claims 2-4, Patterson discloses obtaining the queue length, number of potential users of the automated service device and comparing the obtained queue data against a queue threshold (fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to obtain the queue length as taught by Patterson into the system of Crabtree for the same reasons given previously.

As per claims 5 and 6, neither Crabtree nor Patterson disclose providing the optional communication when the queue threshold has not been met or in the alternative not providing the optional communication if the queue threshold has been met or updating the data while a user is making a transaction. However, the motivation to do so is clearly taught by Crabtree and the desire of customers not to have to wait in line as previously set forth in the earlier rejection and as is well known in the retail art queue lengths adjust as people come and go. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to update the data from the queuing mechanism and to have utilized the queue threshold of Crabtree to determine whether or not to employ an optional communication in Crabtree in the method of Crabtree because it would have further enhanced the benefits set forth above, i.e. provide information concerning the sequence of events and decisions that a consumer makes because it is useful in determining adjusting location and features of services provided in a bank, changing merchandising strategies and display arrangements, etc., tracking information is useful in determining when a queue (line) of objects is formed in the scene, i.e. a line of customers in a retail establishment; may also be used to measure the amount of time individuals spend in observation of an area of interest, such as a promotional display, an information kiosk, ATM machine and the desirability to provide monitor behavior of consumers in order so that adjustments can be made to the location and features of the ATMS and thus enhance customer

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service and satisfaction by decreasing the amount of time they have to wait in line and to decrease costs to consumers and the institutions.

As per claims 7-16, Patterson discloses and automated service system that comprises a processor, queue detector in communication with said processor, display and memory in communication with said processor. However, it would have been obvious to have utilized the memory and processor as taught by Patterson into the system of Crabtree for the reasons set forth above.

#### ***Response to Arguments***

4. Applicant's arguments filed 7/12/2004 have been fully considered but they are not persuasive.

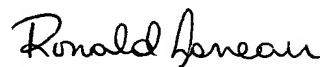
Applicant's arguments about Cataline not teaching "a commercial banking machine such as an ATM" are moot in view of the newly added reference which discloses such limitation.. Furthermore, applicant argues that Crabtree does not disclose or suggest "altering banking machine functionality available to a current user based on the size of a queue line of potential users waiting to use the banking machine after the current user is finished". Contrary to applicant's arguments, this feature is addressed by the newly added reference (Patterson).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ronald Laneau  
Examiner  
Art Unit 3627

4/16/05

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